



North Carolina Department of Environment and Natural Resources

Division of Air Quality

Beverly Eaves Perdue
Governor

Sheila C. Holman
Director

Dee Freeman
Secretary

August 2, 2010

Stanley A. Meiburg,
Acting Regional Administrator
US EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303

Dear Mr. Meiburg:

In the preamble to the June 3, 2010 Greenhouse Gas Tailoring Rule, USEPA requested that each state submit a letter informing EPA of its plans for implementation of the June 3, 2010 rule. North Carolina operates an approved New Source Review (NSR) permit program and a title V permit program under an approved title V implementation plan.

North Carolina's current Prevention of Significant Deterioration (PSD) rule, 15A NCAC 02D .0530, incorporates many of the provisions of the federal PSD program as of a specific date of the Federal Guideline rules. The North Carolina rules adopt by reference the 2007 definition of the term "regulated NSR pollutant." See 40 CFR 51.166(b)(4). As a result, the North Carolina rule does not automatically incorporate the recent greenhouse gas tailoring provisions. North Carolina interprets its PSD regulation to provide that individual greenhouse gases will become regulated NSR pollutants when they are subject to actual control. Absent North Carolina revising its rule consistent with the Federal Tailoring rule, the major source threshold will remain at 100/250 tpy and the significant emission increase for individual greenhouse gases will be zero for existing major sources.

With respect to Title V provisions, North Carolina's Title V permitting rules incorporate by reference the definition of major source as contained at 40 CFR 70.2. Unlike the NSR regulation discussed above, this CFR reference automatically includes any later amendments. North Carolina would have to review its regulations, including Title V permit fees, to ensure sufficient resources to implement the Title V permit program following the inclusion of greenhouse gases.

To address this situation, North Carolina has begun its rulemaking process to incorporate by reference the federal greenhouse gas tailoring provisions in a new PSD rule specific to greenhouse gases, 15A NCAC 02D .0544, Prevention of Significant Deterioration Requirements for Greenhouse Gases. The schedule for completion of this rulemaking is as follows.

- 8/16/2010 Notice appears in the North Carolina Register
- 8/31/2010 Public Hearing
- 10/15/2010 Close of Comment period
- 11/18/2010 Environmental Management Commission action
- 12/16/2010 Rules Review Commission action
- 1/2/2011 Earliest Rule Effective date

As reflected above under the current rulemaking schedule, the earliest the state greenhouse gas tailoring rule can become effective is January 2, 2011. If letters of objection are received per the State Administrative Procedures Act, the tailoring rule will be forwarded to the next session of the legislature which begins in January 2011. If the legislature chooses to introduce a bill regarding the rule, the earliest the rule would become effective would be the end of the legislative session, which could be summer 2011, unless a bill is ratified that specifies another effective date.

If you have any questions regarding this matter, please contact me or Joelle Burleson at (919) 733-1474.

Sincerely,

A handwritten signature in cursive script that reads "Sheila C. Holman".

Sheila C. Holman